

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
PLANO DIVISION**

UNITED STATES OF AMERICA,)	CRIMINAL ACTION NO.
)	
)	
v.)	4:16 CR 00176
)	(Judge Crone)
JAMES BALAGIA,)	
Defendant.)	
_____)	

COUNSELS' MOTION TO WITHDRAWAL - RE: DEFENDANT BALAGIA

Counsels Kirk Lechtenberger and Michael Mowla file this Unopposed Motion to Withdrawal and would state the following:

1. Good cause exists for the withdrawal of undersigned counsels as counsel for Defendant.
2. Due to no fault of undersigned counsels, circumstances have arisen where they are unable to effectively communicate with Defendant in a manner consistent with good attorney-client relations.
3. Because additional information regarding the reason for this motion may implicate attorney-client communications, if the Court requires this additional information to show good cause, undersigned counsel request that they be allowed to submit the information: (1) by way of a sealed and *ex parte* filing; or (2) at an *ex parte* hearing at which only undersigned counsel, Defendant, the court reporter, court-security, and the Magistrate or District Judge are present.
4. The United States Attorney's Office does **not** object to the relief requested in this motion.

5. A copy of this motion will be delivered via Email and Letter to Defendant James Morris Balagia, who is notified in writing of his right to object to this motion. It is unknown if Defendant James Morris Balagia is opposed or unopposed to the motion. The last known street address and mailing address of Defendant James Morris Balagia is 15612 Littig Road, Manor, TX 78653.

6. The deadlines are:

- **January 8, 2018, at 9:00 a.m.:** Final Pretrial Conference on in Courtroom #105, United States Courthouse, 7940 Preston Road, Plano, Texas, Jury Selection and Trial will commence after the Pre-Trial Conference and continuing thereafter.
- **December 4, 2017:** Any motion to suppress evidence shall be filed with the court.
- **December 18, 2017:** Any motion for continuance shall be filed with the court.
- **December 29, 2017:** Counsel for the Government shall deliver to counsel for Defendant(s) proposed jury instructions.
- **December 18, 2017 by 4:00 p.m.:** Notification of a plea agreement shall be by email, hand delivery or fax of a signed copy of the plea agreement and factual basis for the plea. Notification that the case will proceed to trial may be by email or telephone. After this deadline, no plea agreement will be honored by the court, and Defendant may not receive a points reduction for acceptance of responsibility.
- **January 2, 2018:** If the parties do not notify the Court of a plea agreement as provided above, defense counsel shall deliver to counsel for the Government any additional jury instructions desired by Defendant(s). If two or more Defendants are represented by separate counsel, their submission must be made jointly.
- **January 2, 2018:** Counsel for Defendant(s) and counsel for the Government shall confer to determine which jury instructions can be agreed upon.
- **January 2, 2018:** Parties shall file any motions in limine and any other pretrial motions.

- **January 2, 2018:** Counsel for the Government and counsel for the Defendant(s) shall: A. Jointly file agreed upon instructions; B. Each file any proposed instructions that were not agreed upon, citing the authority for each instruction. (Any party seeking to file proposed jury instructions after the deadline may do so only with leave of Court.); C. Each file any objections to the other's proposed jury instructions. Objections must be written, specific, cite authority, and include any alternate instructions counsel deem more appropriate; D. Each file proposed voir dire questions; E. If counsel believes that a written response to a particular motion in limine is needed, file it as soon as possible; F. Each provide the court a list of witnesses, a list of exhibits anticipated to be introduced during trial, and a copy of each marked exhibit. All exhibits to be used for trial shall be pre-marked numerically and in succession. (Groups of exhibits pertaining to the same subject matter, such as photos of same scene, may, at counsel's discretion be numbered and lettered, i.e., 2a, 2b, 2c, etc.) Counsel shall provide the Court the original and two (2) copies of each list and marked exhibit.

7. This motion is made in good faith and **not** for purposes of delay.

REQUEST

Counsels ask that the Court GRANT this motion to withdraw as counsel for Defendant James Morris Balagia.

Respectfully Submitted,

By: /s/ Kirk F. Lechtenberger
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CERTIFICATE OF SERVICE

Counsel states that a true and correct copy of the Motion was delivered to the Court and counsel for the government listed below in the manner indicated.

U.S. District Court Clerk

ECF Delivery on 11/12/2017

U.S. Attorney's Office
And all Parties

ECF Delivery on 11/12/2017

By: /s/ Kirk F. Lechtenberger
KIRK F. LECHTENBERGER

CERTIFICATE OF CONFERENCE

I, Kirk F. Lechtenberger, state as follows:

In compliance with the Local Rule, a conference on the attached motion was conducted on or about 11/10/2017 via an EMAIL conversation between Counsel and the Assistant United States Attorney assigned to the case.

AUSA IS UNOPPOSED;

Dated: 11/12/2017

By: /s/ Kirk F. Lechtenberger
KIRK F. LECHTENBERGER